ISRI Policy Position on State Scrap Tire Laws

Tire recycling provides environmental and economic benefits

Recycling tires to create new products and raw materials offsets the use of resource-intensive virgin materials, can preserve the characteristics of rubber for future recycling, often generates superior raw materials, and creates market demand for scrap tires that would otherwise be bound for disposal. Reusing tires saves millions of gallons of oil each year, provides a safe and economical product, and uses materials that would otherwise be bound for disposal.

Like all industries, however, tire recyclers compete with those producing products and raw materials that are alternatives to tire chips and ground rubber. In addition, tire recyclers must compete for the scrap tires themselves. Generators of scrap tires seek to get rid of tires for the most profit or at the least cost. In most cases, this means that tire recyclers compete with illegal disposal, which is often cheaper than transporting tires to a legitimate recycler who in most cases charges a tipping fee.

Tire Disposal Causes Environmental and Economic Problems

When tires are discarded in sanitary landfills operated for disposal of municipal sold waste (MSW) or construction and demolition debris (C&D), they are no longer available for recycling. The beneficial characteristics of the rubber are lost when the tires are commingled with solid waste and the tires cannot or will not be recycled to offset virgin materials. When deposited in such landfills, whole tires take up limited landfill space and, if not properly chipped or sliced prior to disposal, can cause incomplete compaction and compromise the integrity of daily, intermediate, and final cover for landfills.

When whole scrap tires are improperly stockpiled or illegally dumped, they provide breeding grounds for disease-bearing mosquitoes and rodents. When stockpiles of whole tires catch fire, they are difficult to extinguish and present significant risks to the environment, property, and public health.

Cheap tire disposal, especially illegal dumping and piles, is therefore the common "enemy" of both tire recyclers, who must compete economically for the tires, and for policymakers, who seek to prevent the damaging environmental consequences of abandoned tires and tire piles.

What elements add up to a successful state tire program?

Overall Goal

For purposes of scrap tire policies, there are three types of scrap tires: (1) those that were dumped or abandoned in the past, (2) those currently generated that are bound for reuse, recycling, or recovery, and (3) those currently generated that are still bound for abandonment or dumping. Any successful scrap tire policy must seek to maintain and increase the percentage of scrap tires bound for reuse, for recycling into new products, or for responsible energy recovery. This "litmus test" is equally appropriate for government laws, regulations, programs, and policies. Programs not meeting this goal will repeatedly fail to prevent tire piles. Current laws and policies too often do not prevent these problems and even hamper or preclude needed solutions. Which policy approaches can be combined, or should be avoided, to achieve these long term goals?

Cleanup Programs

Cleanup programs are important to abate existing whole tire stockpiles, or to address any whole tire stockpiles that are created due to future policy failures, but abatement programs are a last ditch safety net for scrap tires. Cleanup programs alone do not prevent future whole tire stockpiles. Abatement programs must be combined with programs that maintain and increase the percentage of scrap tires that are bound for reuse, for recycling into new products, or for responsible energy recovery.

Tire Fees and Tire Funds

Many states have developed funds related to the management of used tires. All too often, however, those funds are not used to deal with the scrap tire at the generator's facility or to maintain and increase the percentage of tires bound for reuse, recycling, or recovery. Especially when facing budget shortfalls, state governments increasingly use or deplete such funds for unrelated purposes or even the general fund. In other cases, states use the funds for recycling programs other than those for tires. Especially when mandatory "tire recycling" fees generate tire funds, those fees must go to a dedicated state fund; states must not use them for any other purpose. To do otherwise does not help recycling and can mislead taxpayers.

Grants and Subsidies

When grants or subsidies are improperly designed or implemented, they can not only fail to increase the percentage of tires bound for reuse, recycling, or recovery, but also can waste public funds and needlessly discredit and harm legitimate recyclers.

Market Promotion

Government programs can promote markets for recycled materials, especially in when governments procure recycled-content products. However, even in areas where

recycled tires produce superior products, such as rubberized pavement, poorly designed policies can backfire. As an example states revolted against the federal

ISTEA law that mandated the use of crumb rubber in paving, leading to disastrous fluctuations in crumb rubber markets, numerous business failures, and a great setback for this promising end use. In states that must "approve" new markets for recycled rubber, states agencies should collectively, or through US EPA or some other means, continually update and share an inventory of approved markets.

Design and Enforcement of Necessary and Reasonable Tire Regulations

All too often, states fail to design programs that adequately control the proper stakeholders, or fail to enforce the laws and regulations critical to the success of tire recycling. In order to prevent undesirable disposal and to increase the percentage of tires bound for reuse, recycling, or recovery, states must regulate tire haulers and enforce against unlicensed or otherwise illegal operators. Additionally, it may be appropriate to regulate tire generators (other than individual citizens), such as ensuring their use of licensed haulers and processors. It is also appropriate for states to regulate tire recyclers, in order to prevent "sham" recycling and to level the playing field for legitimate recyclers. States must design and implement "smart" programs that produce results without unwarranted burdens or restrictions such as unreasonably high fees, requirements for multiple duplicative licenses, prohibitions against new legitimate markets, or reporting requirements that are burdensome, useless, or that expose competitive information. As states refine tire programs, states should also seek to harmonize tire requirements across state lines, so that tire recyclers can operate competitively in multiple states without facing inconsistent or conflicting requirements.

Tire Monofills

Tire monofills that are licensed by state regulatory agencies to accept and inter only shredded tires can play a role in effective scrap tire management. For short or long term storage, such monofills can provide enhanced safety, public health, and environmental protection over aboveground piles. Such monofills can be an environmentally sound repository when market demand for processed scrap tires is inadequate. Scrap tire processors can also use such monofills to maintain consistent operations in spite of fluctuations in scrap tire availability or demand, or to build up inventories of processed material to fulfill large orders. Even when used for indefinite or permanent reposal, such monofills can preserve processed tire material so that it can be readily recovered in the future. State regulators should regulate all monofills, whether under regulations for solid waste facilities or under requirements designed for interim storage facilities that still offer full environmental protection and owner accountability.

Other Programs that Work

If a program will increase the percentage of scrap tires bound for reuse, for recycling into new products, or for responsible energy recovery, it is worth consideration.

The Public Policy Framework of Tire Solutions

A. To avoid disposal, policies must promote choices to reduce, reuse, recycle, and recover.

1. Within the realm of recycling, policies should promote, or at least not impose barriers to, higher end uses for rubber, which yield more profit, and therefore more sustainability, for recyclers. At the same time, policies should not impede markets for lower end uses that are sound and successful.

   a. Tire recyclers making a higher profit from recycled products will be better able to outlast market fluctuations and less likely to need government assistance.

   b. Recycling yields more environmental benefits than alternative endpoints for tires. Compared to energy recovery, for example, recycling conserves natural resources and preserves much rubber for additional future recycling.

   c. Recycling generates beneficial raw material for industry and other applications, such as rubber asphalt paving and civil engineering applications like sound walls and septic fields.

2. Policies should understand and acknowledge and benefits of responsible energy recovery.

   a. Responsible energy recovery minimizes environmental impacts while maximizing energy yields. Examples include modern, regulated facilities consuming tire derived fuel (TDF) and, in some recent applications, whole tires.

   b. As a market, energy recovery can provide a critical, high volume "stepping stone" for tire recyclers, providing them with the financial resources necessary to invest in the equipment and processes needed to eventually recycle tires for higher end uses.

   c. Energy recovery offsets landfill disposal and, by generating a demand for tires, makes illegal disposal less likely.

   d. Responsible energy recovery makes use of abundant, low cost tires as fuel and offsets the use of fossil fuels and other natural resources.

Policymakers and Recyclers Can, as Public And Private Partners, Achieve Tire Solutions to Everyone's Benefit

Scrap tire policies, and the scrap tire recycling industry, have reached a new level of maturity. New, smarter approaches can avoid the failures of the past and achieve sustainable solutions that weren't possible before.

Scrap tire regulators and scrap tire recyclers share common short term goals and enemies.

1. Goal: maintain and increase the percentage of scrap tires bound for reuse, for recycling into new products, or for responsible energy recovery, thereby avoiding legal and illegal disposal.

2. Enemy: reduce or eliminate illegal dumping, which harms communities in terms of safety, environmental degradation, community development, and cost, and harms recyclers in particular because it is "cheap" competition, eliminates their raw materials, and makes scrap tires a solid waste problem rather than a free market commodity

In the end, recyclers and regulators share common overall goals for tire recycling, which will benefit everyone:

1. Tire recycling becomes a well-regulated, competitive industry, rather than a solid waste problem.

2. Government policies work intelligently to maintain a free market while preventing whole tire stockpiles.

3. Government funds (general or from fees) are used efficiently and for their designated purposes.

What roles should government play in this successful partnership?

Government as Regulator

1. Scrap tire regulators can create the framework for a successful tire recycling market. Even "free" markets like the stock exchange are sustained by enforced regulations, but policies must be reasonable and realistic, allowing the free market to flourish rather than preventing its establishment or evolution.

2. Of paramount importance, regulators must enforce existing laws, especially before adding additional laws. In many cases, general environmental and public health laws already provide much if not all of the needed authority to shut down illegitimate operators, but even the best scrap tire law must be consistently enforced in order to make a difference.

3. Policymakers must keep programs "smart" by studying the markets, assessing current conditions, and changing laws and policies as needed to:

a. Regulate haulers with licensing, bonding, reporting, and the like.

b. Regulate generators, if necessary, to document and control the flow of used tires.

c. Regulate recyclers appropriately to prevent "sham" recycling and level the playing field for legitimate recyclers. As an example, state programs should allow recyclers to store processed tires in a responsible way so that they can build inventories for large projects and maintain inbound streams and services, but regulators should also distinguish true disposal and regulate it as such.

Government Role as Fundraiser

Governments must not conduct or allow the fraudulent use of "tire" recycling fees for any use other than tire recycling. Governments should never create, and should repeal, such fees if they can or will be used for anything other than maintaining or increasing the percentage of scrap tires bound for reuse, for recycling into new products, or for responsible energy recovery.

Government Role in Promoting Recycling

1. Governments should aggressively and responsibly procure goods made with recycled content, in order to promote developing markets.

2. Governments can play a role in "Industry Building," so long as the programs do not unfairly displace existing infrastructure and do not fund projects that have no potential for making economic sense.

3. Governments must recognize, in laws, regulations, and policies that scrap tires bound for recycling are not "solid waste" and should not be regulated as such. Scrap tires bound for recycling are a commodity. Scrap tires are more likely to have value in the marketplace if they are not misregulated as "waste."

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